

# **BOARD OF ADJUSTMENT AGENDA**

**SPECIAL MEETING**

**MONDAY NOVEMBER 10, 2014**

**4:30 P.M.**



**CITY COUNCIL CHAMBERS**

1. Meeting Called to Order.
2. Roll Call
3. Reading of the Minutes of the September 29th, 2014 Regular Meeting.
4. Public comment period. The general public is invited to address the Board of Adjustment regarding any item on this agenda. The overall and individual speaking time allotments may be limited by the Chair.
5. Consider request of Susann R. McDermott to allow for an insufficient rear set back and less than the required square footage of a lot at 636 East Linden, Dodge County, Fremont Nebraska.
6. Consider request of Justin Horner, 938 N Union to allow for a rocked, shared driveway in lieu of pavement.
7. Consider request of Doug Dale, 203 Sesame Street, Dodge County, Fremont Nebraska to allow 6 foot privacy fence in the required street side yard setback.

**THIS MEETING WAS PRECEDED BY PUBLICIZED NOTICE IN THE FREMONT TRIBUNE AND THE AGENDA DISPLAYED IN THE LOBBY OF THE MUNICIPAL BUILDING AND POSTED ONLINE AT [WWW.FREMONTNE.GOV](http://WWW.FREMONTNE.GOV) AND DISTRIBUTED TO THE BOARD OF ADJUSTMENT, MAYOR AND CITY COUNCIL ON OCTOBER 30, 2014 AND IS OPEN TO THE PUBLIC. A COPY OF THE AGENDA WAS KEPT CONTINUALLY CURRENT AND AVAILABLE TO THE PUBLIC AT 400 EAST MILITARY, 3<sup>RD</sup> FLOOR. A COPY OF THE OPEN MEETING LAW IS POSTED CONTINUALLY FOR PUBLIC INSPECTION LOCATED NEAR THE COUNCIL CHAMBERS ENTRANCE DOOR BY THE AGENDAS. THE BOARD OF ADJUSTMENT RESERVES THE RIGHT TO ADJUST THE ORDER OF ITEMS ON THIS AGENDA.**

## STAFF REPORT

**TO:** Board of Adjustment

**FROM:** Justin Zetterman, Interim Planning Director

**DATE:** October 16, 2014

**SUBJECT:** Susann R. McDermott, Trustee request to subdivide Lots 1 and 2, Block 30, Chase's Addition resulting in a lot with insufficient rear setback and insufficient lot size.

**Recommendation:** Recommend Approval with condition of moving the fence and proposed lot line 5 feet to the north to increase the rear setback of Tract A.

**Request:** The applicant requests a variance of the minimum lot size and the minimum rear setback for an R-2 zoned property, found on Table 4-3 of the City Zoning Ordinance, in order to replat Lots 1&2, Block 30 Chase's Addition (currently a single lot) into 2 separate lots.

**Background:** Though the legal description of the parcel in question is Lots 1 & 2, Block 30, Chase's Addition, the two originally platted lots act as a single legal description for a single parcel of land. This single parcel of land has two homes on it. Having two distinct homes on a single parcel is not ideal and has prevented the owner from refinancing her home.

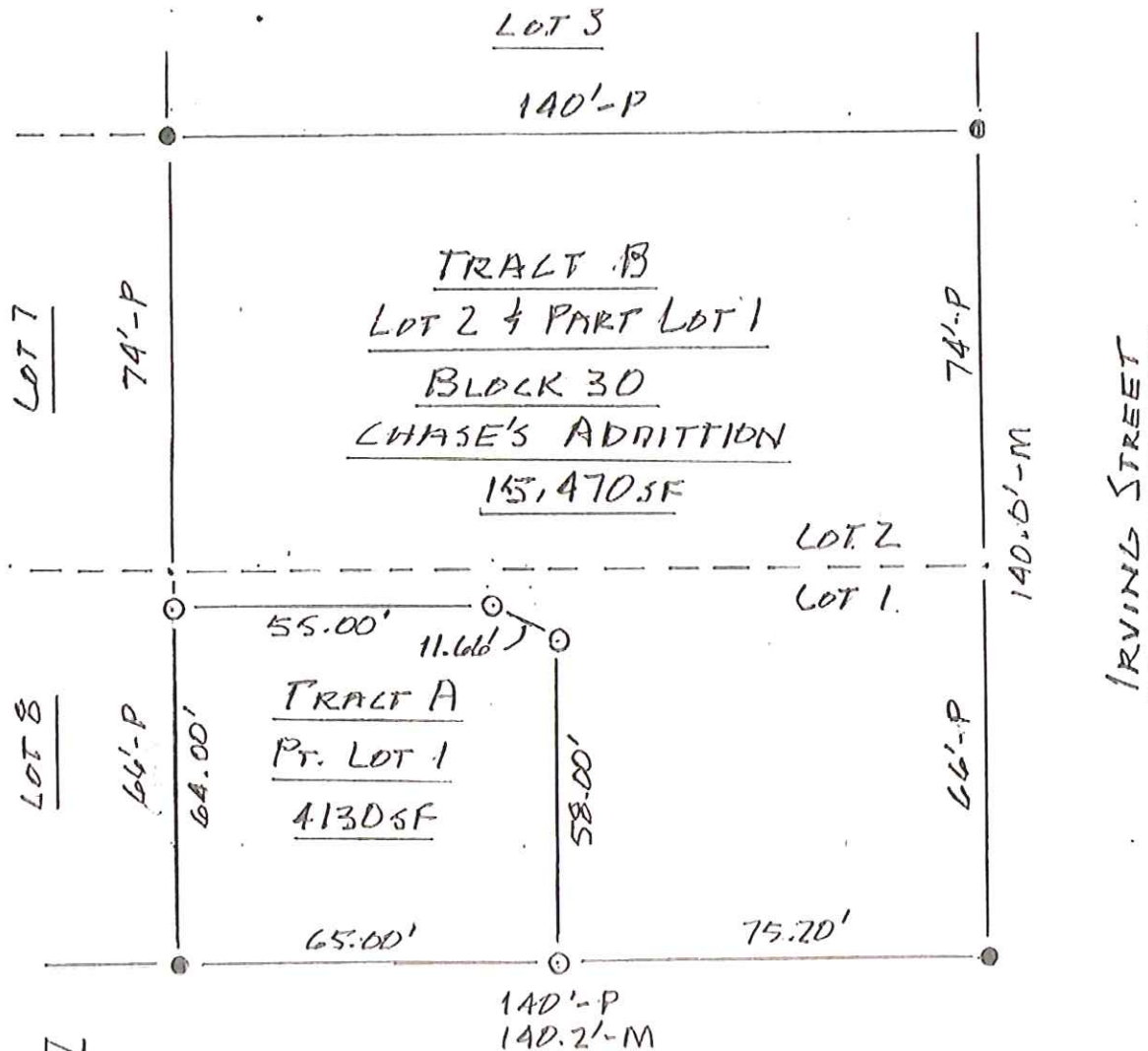
The location of the proposed lot line is determined by an existing fence around an existing pool that is used by the main residence. Subdividing this property at this location creates a lot that is 4,130 SF in area (6000 SF min) with a rear setback of 3.5 feet (20' min). This lot fails to meet the Lot Size Exception criteria found in Article 4, Section 411-a which would allow for a lot of 4000 SF but requires that the minimum lot depth be 80 feet. Visually, it would appear that there is the possibility of moving the fence further north without impacting the pool. This would increase the rear setback.

Tract A being less than 6000 SF is not uncommon for the area. The two lots directly to the west are both roughly 4600 SF. Directly across the street, there is a lot that appears to be less than 4000 SF. One block to the west there is another lot that appears to be less than 4000 SF.

**Required Findings:**

- (a) The strict application of the zoning regulations will produce an undue hardship.

- (b) Such hardship is not shared generally by other properties in the same zoning district and in the same vicinity
- (c) The authorization of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by granting of the variance.
- (d) The granting of the variance is based upon reason of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit or caprice.
- (e) The condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable a general regulation to be adopted as an amendment to this zoning regulations.
- (f) The granting of the variance will not cause substantial detriment to the public good and will not substantially impair the intent and purpose of any Ordinance or Resolution.



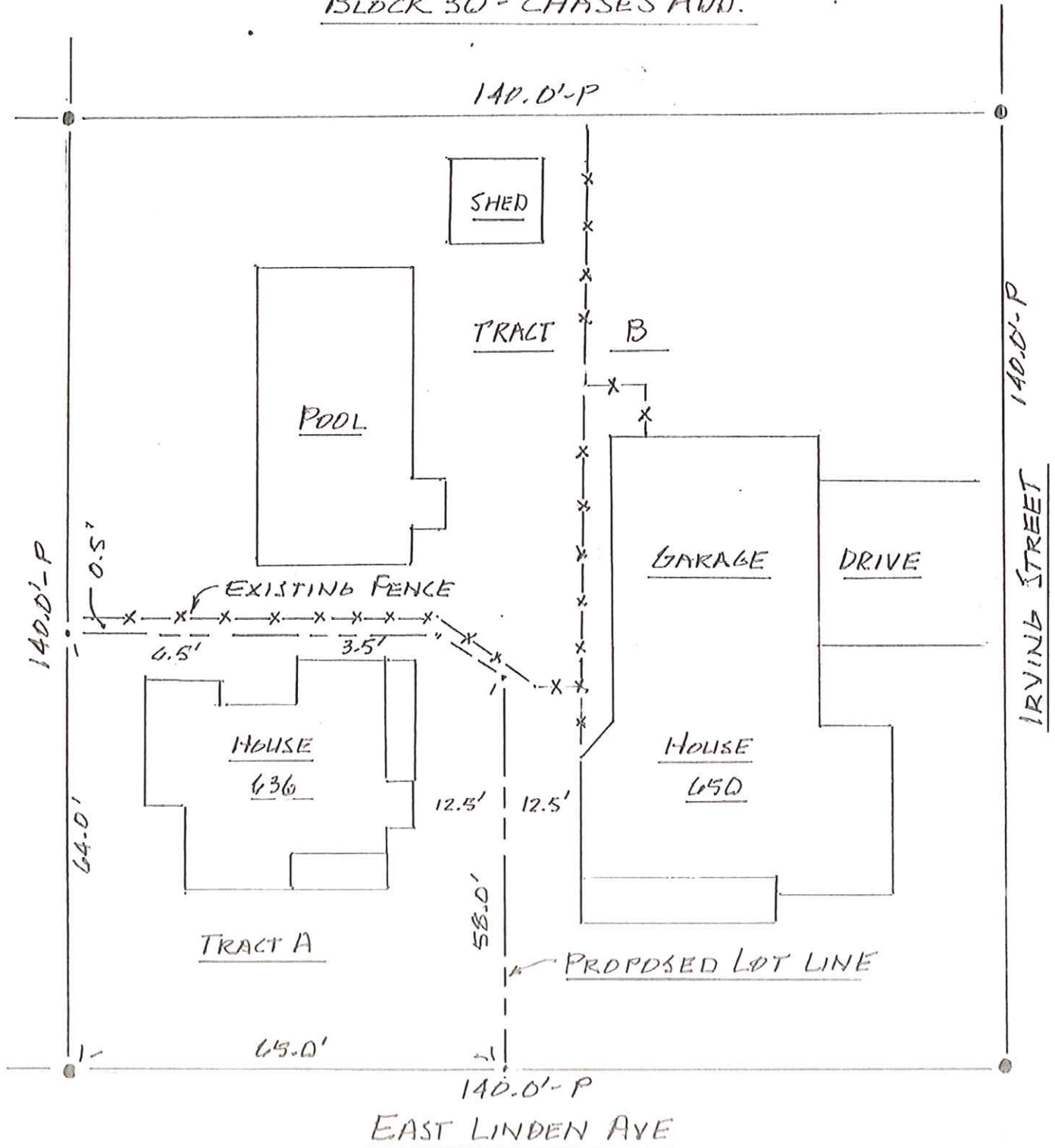
### LEGEND

- PROPERTY CORNER  
FOUND (3/4" PIPE)
- PROPERTY CORNER  
SET 5/8" REBAR W/CAP
- P - PLAT DISTANCE
- M - MEASURED DISTANCE



*Clark A. Bosch*  
9-16-14

BLOCK 30 - CHASES ADD.





## Legal Descriptions Tracts A and B

### Tract A.

Part of Lot 1, Block 30, Chase's Addition, City of Fremont, Dodge County, Nebraska, more particularly described as follows: Beginning at the Southwest corner of said Lot 1, Block 30, Chase's Addition, being the true point of beginning, thence easterly along the South lot line of said Lot 1 a distance of 65.00 feet; thence northerly on a line parallel to the West lot line of said Lot 1 a distance of 58.00 feet; thence N30°57'50"W a distance of 11.66 feet; thence westerly on a line parallel to the South lot line of said Lot 1 a distance of 55.00 feet to a point on the West lot line of said Lot 1; thence southerly along the West lot line of said Lot 1 a distance of 64.00 feet to the point of beginning; containing 4,130.00 square feet more or less.

### Tract B.

Lot 2 and part of Lot 1, Block 30, Chase's Addition, City of Fremont, Dodge County, Nebraska, more particularly described as follows: Lots 1 and 2, Block 30, Chase's Addition, City of Fremont, Dodge County, Nebraska, EXCEPT, a part of Lot 1, Block 30, Chase's Addition, legally described as beginning at the Southwest corner of said Lot 1, being the true point of beginning, thence easterly along the South lot line of said Lot 1 a distance of 65.00 feet; thence northerly on a line parallel to the West lot line of said Lot 1 a distance of 58.00 feet; thence N30°57'50"W a distance of 11.66 feet; thence westerly on a line parallel to the South lot line of said Lot 1 a distance of 55.00 feet to a point on the West lot line of said Lot 1; thence southerly along the West lot line of said Lot 1 a distance of 64.00 feet to the point of beginning; containing 4,130.00 square feet more or less.

## STAFF REPORT

**TO:** Board of Adjustment

**FROM:** Justin Zetterman, Interim Planning Director

**DATE:** October 17, 2014

**SUBJECT:** Justin Horner's request to not construct a rocked, shared driveway to his proposed detached garage.

**Recommendation:** Recommend Approval with the understanding that under no conditions can the rocked driveway be used for parking.

**Request:** The applicant requests to construct a rocked, shared driveway to his proposed detached garage at 938 N Union Street.

**Background:** Article 9, Section 906 b-1-b states that "In residential areas, all parking spaces and driveways used for parking shall be paved; however, this requirement does not extend to driveways not used under any conditions for parking."

For this driveway to be rocked, it must be understood and followed that no parking may take place on the driveway. Any area in which cars will be parked off-street "shall be surfaced with concrete, asphalt, asphaltic concrete or brick.

**Required Findings:**

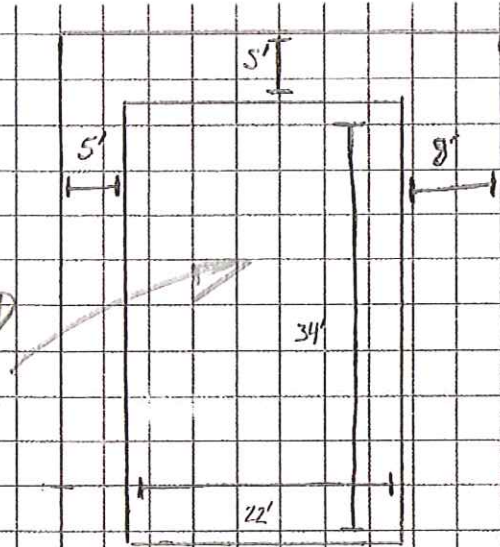
- (a) The strict application of the zoning regulations will produce an undue hardship.
- (b) Such hardship is not shared generally by other properties in the same zoning district and in the same vicinity
- (c) The authorization of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by granting of the variance.
- (d) The granting of the variance is based upon reason of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit or caprice.
- (e) The condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable a general regulation to be adopted as an amendment to this zoning regulations.
- (f) The granting of the variance will not cause substantial detriment to the public good and will not substantially impair the intent and purpose of any Ordinance or Resolution.

938 N UNION

LEGAL:

SOUTH 1/2 OF LOT  
6, BLOCK 89,  
BARNARD'S  
ADDITION

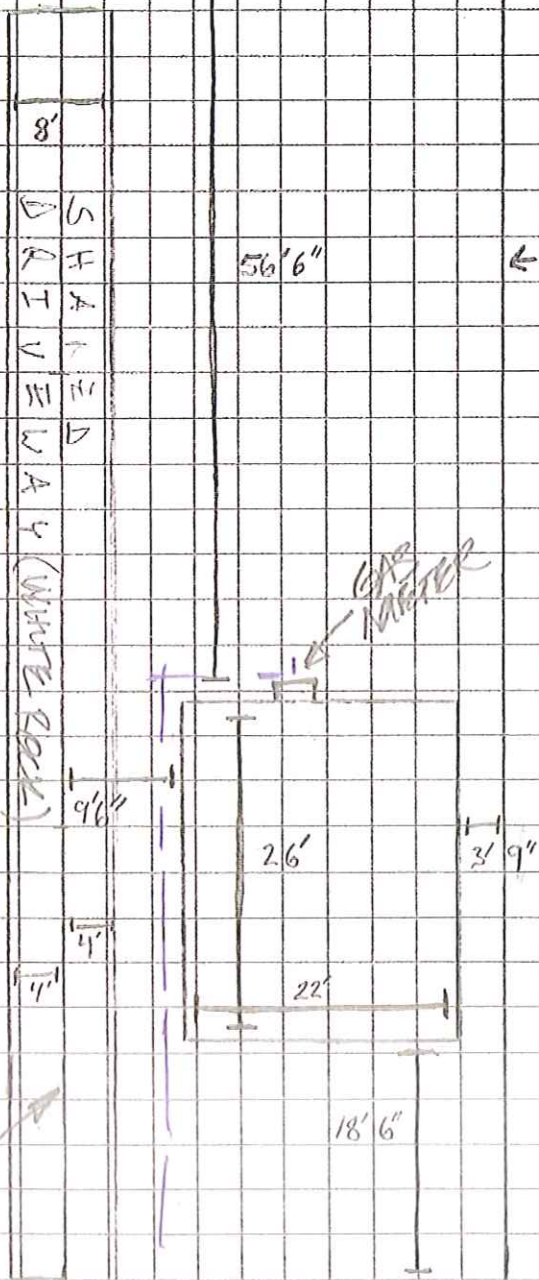
PROPOSED  
GARAGE



↑  
140'

↓ Lot Dimensions  
140' x 35'

← 35' →



EXISTING  
LINE

1 Square = 3.5'

I HAVE REVIEWED THIS SITE PLAN AND VERIFIED THERE ARE  
NO CONFLICTS WITH ANY UTILITY SERVICE OR EASEMENT.

WATER/SEWER

LARRY ANDREASEN

GAS

KIRK HILLRICH

ELECTRICITY

DARRYL STEWART

SIDEWALK

PETE GEAGHAN

LOCATE NO.



## STAFF REPORT

**TO:** Board of Adjustment

**FROM:** Justin Zetterman, Interim Planning Director

**DATE:** October 17, 2014

**SUBJECT:** Doug Dale's request to construct a 6' privacy fence within the side yard setback.

**Recommendation:** Recommend Denial of the request to build the fence at 10' from the property line and allow construction at the same setback as the north side of the house.

**Request:** The applicant requests to construct a 6' privacy fence that would sit 10' from the side yard property line instead of the required 15' at 203 Sesame Street.

**Background:** The applicant currently has a chain link fence on the north side of their property paralleling E Dodge Street. This existing fence does not provide any privacy for their backyard. They would like to build a fence in the side yard setback due to the location of the existing landscaping in the setback that they would like to have be a part of the backyard.

Article 7 Section 707-i-1 states that "On corner lots, a fence built parallel to the street yard line but setback in conformance with the required street yard setback may have a maximum of height of six feet." So for a six feet tall fence, the fence must be outside of the street yard setback.

We do not have a surveyed drawing of the property, but the house appears from computer images to potentially have been built within the 15' side yard setback so even building the fence in line with the north side of the house would require a variance.

**Required Findings:**

- (a) The strict application of the zoning regulations will produce an undue hardship.
- (b) Such hardship is not shared generally by other properties in the same zoning district and in the same vicinity
- (c) The authorization of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by granting of the variance.

- (d) The granting of the variance is based upon reason of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit or caprice.
- (e) The condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable a general regulation to be adopted as an amendment to this zoning regulations.
- (f) The granting of the variance will not cause substantial detriment to the public good and will not substantially impair the intent and purpose of any Ordinance or Resolution.

